

PROPOSED EXPERIMENTAL DESIGN AND SPECIFICATIONS

Northeast Distant Fishing Zone Pelagic Longline Fishing Experiment

April 22, 2002

The Contractor shall furnish the necessary personnel, material, equipment, services and facilities (except as otherwise specified), to perform the following:

The Contractor shall perform the following Pelagic Longline Fishing Experiment as specified herein, intended to result in turtle bycatch reduction:

Line Item 01 - Experimental longline fishing in the Northeast Distant Fishing Zone with specific hook placement of different hook types, different bait types, and specific lengths of daylight soak time.

GENERAL SPECIFICATIONS:

Pursuant to a permit issued under Section 10(a)(1)(A) of the Endangered Species Act (ESA), 16 U.S.C. Section 1539(a)(1)(A), the National Marine Fisheries Service (NMFS) intends to conduct research to find modified pelagic longline fishing methods which reduce the incidental capture of sea turtles while remaining an economically viable fishery. To test bycatch reduction fishing methods, NMFS will contract fishing vessels to conduct experimental fishing operations in the Northeast Distant (NED) statistical zone (Figure 1) from July 2002, through November 2002. The NED is the area bounded from 20 to 60 degrees west longitude and from 35 to 55 degrees north latitude.

Each Vessel Operator (the senior officer aboard the vessel answerable to the Contractor) shall, under an Exempted Fishing Permit, as authorized by the ESA Section 10 Research Permit issued to the Southeast Fisheries Science Center (SEFSC) of NMFS, perform experimental fishing operations in units of longline sets using specified placements of gangions with different baits, different hook types, and specified lengths of set time. Contract operations will be observed at all times by a Fisheries Observer (individuals employed or contracted by NMFS to observe and record the conduct of all fishing operations on board each vessel and /or to study fishing gear modifications). Vessels must make at least two trips, fishing 33 experimental sets with a minimum number of 900 hooks, following the specified research protocol.

To be eligible, U.S. vessels must have been issued currently valid limited access permits for Atlantic Tunas Longline, Atlantic Swordfish (Directed), and Atlantic Sharks (Directed or Incidental). Offers from vessels not registered in the U.S. must meet all specifications, conduct and communicate all business and fishing operations in English, agree to abide by all regulations under 50 CFR 635 and

demonstrate prior to each trip that swordfish quota is available from the country of vessel registry. Also to be eligible, vessels must be capable of embarking a Fisheries Observer to be designated by NMFS and, when embarking the Fisheries Observer, must meet the vessel safety requirements at 50 CFR 600.746(c) (attached) and the accommodation and access requirements at 50 CFR 635.7(e) (attached).

Preference will be given to eligible vessels that have fished pelagic longline gear for swordfish and tunas in the NMFS-designated NED statistical zone as evidenced by submission reports, including the associated tally (settlement) sheets furnished to the vessel by the receiving dealer.

All fishing activities must be in compliance with the applicable regulations at 50 CFR part 635, except as modified by the terms and conditions of the ESA Section 10 Permit and of the Exempted Fishing Permit to be issued under the authority of 50 CFR 635.32. The take of sea turtles in these experiments will be limited to a number authorized by the ESA Section 10 Permit. Specific requirements for the fishing experiments are given in Section J of these Specifications.

All Vessel Operators must be aware that if the total takes of sea turtles identified in the ESA Section 10 permit for this experiment are reached, the experiment will be terminated at that time. Should that occur, all vessels will be required to cease fishing and to return to port, even if that Vessel Operator has taken none of those sea turtles.

Fishing on the high seas at great distance from port will require vessels suitable for rough water work, with sufficient fuel, water and food stores to remain at sea for at least 25 days. Recommended departure and arrival ports will be discussed with each contract bidder and those most advantageous to the U.S. Government will be used. Port contact for each vessel must be a physical address (not PO Box), with a voice telephone contact, for shipment and temporary storage of equipment and supplies. Vessel Operators must understand that the logistics of getting observers and equipment to several ports would complicate and delay departure dates. Travel restrictions and authorizations to reach ports outside of the United States are prohibitive. Therefore special arrangements will be necessary for vessels landing in ports outside the U.S.

The vessel must have all required Safety Inspections as stated in Section F this statement, as well as having all approved safety, navigation and communication devices in proper working order. The Contractor shall furnish all equipment, materials, food, personnel, and services needed to perform the work described in this statement, including longline fishing gear, bait, fuel, and insurance for the vessel and the ship's personnel, including the Fisheries Observer, unless as noted. The standard practice of the NMFS Atlantic Longline Observer Program has been for NMFS to provide Protection and Indemnity (P&I) insurance. Under this contract, NMFS will not provide this coverage.

Vessel owners and operators must attend NMFS workshops ashore prior to initiation of the experimental fishing operations; Fisheries Observers will not conduct workshops aboard vessels. This workshop will be for the Vessel Operators to be instructed in turtle handling techniques and to review the research protocol. This workshop is in addition to the meetings to be held with the Vessel Operator prior to, and at the conclusion of, each trip.

All contracted vessels shall carry Fisheries Observers assigned by NMFS during all contract fishing operations. The Fisheries Observers will be employed or contracted by NMFS primarily to oversee that the fishing operations are conducted according to the contract, to observe the results, and to record the data. The Vessel Operator is responsible for meeting the requirements of the experiment and will have authority to choose fishing locations within the NED zone and deploy fishing gear within the parameters specified in Section J. Neither the Vessel Operator nor the Fisheries Observer are authorized to modify the method of fishing from that described in the contract, nor are they qualified to make changes in the contract requirements. The Fisheries Observer will notify the Vessel Operator if he or she observes any failure to conduct operations as described in the contract, and advise the Vessel Operator on means to correct any observed deviations from contract requirements. Otherwise the Fisheries Observer will not interfere with the daily operation of the vessel. If the Vessel Operator does not correct such deviations, NMFS shall inform the Vessel Operator to cease all fishing operations and return to port.

If the Fisheries Observer notifies the Vessel Operator that the experiment is not being conducted in accordance with the contract, or that the allowed take of sea turtles under the ESA Section 10 permit has been approached or reached, or the activity is not being conducted in accordance with the Biological Opinion, its terms and conditions, or the ESA Section 10 Permit, the Vessel Operator shall immediately contact NMFS for instructions, in accordance with the procedures set forth at E.3 below. When directed by NMFS, the Vessel Operator shall cease all fishing operations. Turtle takes shall be reported to NMFS in real time (within 24 hours) whenever possible. The Vessel Operator shall give the Fisheries Observer assistance in reporting turtle takes with radio or satellite communications capabilities the vessel has provided.

Fisheries Observers will have authority over the handling and disposition of any captured turtles. However, it is the responsibility of the Vessel Operator to board the turtles, whenever possible, and to remove all gear and line from all those turtles not boarded, as possible. The Fisheries Observer will take biopsy samples from non-boarded turtles before they are released from the gear. Once the turtle is boarded the Fisheries Observer will assume responsibility for the turtle. If the Fisheries Observer request assistance in handling the turtle while aboard it shall be provided by the Vessel Operator and crew. The Fisheries Observer will not be involved with crew responsibilities, such as standing watch, cooking meals, helping with the fishing operations, or operating mechanical or electronic equipment. The Fisheries Observer will, if requested, assist the Vessel Operator in the initial organizing and

timing of modified fishing operations to achieve the gear configurations required by the contract.

The primary role and duties of the Vessel Operator and crew shall be to conduct fishing operations as competently and successfully as possible while strictly adhering to the modified and standardized fishing operations required herein. It is important to the success of the experiment to determine whether commercially viable quantities of fish are caught. The Vessel Operator must ensure the safe embarking and disembarking of the Fisheries Observer, and will be responsible for the safe conduct of all operations.

The contractor must provide the Fisheries Observer with a bunk in the living quarters comparable to crewmembers, and provide the same meals, snacks, and amenities as are normally provided to other vessel personnel. A mattress or futon on the floor or a cot is not acceptable. The bunk of the Fisheries Observer will be in the same vicinity of the crewmembers living quarters, unless other arrangements are approved in advance by the Contracting Officer's Technical Representative (COTR), and agreed to by the observer.

If a vessel normally has shared cabins for crewmembers, female Fisheries Observers on a vessel with an all-male crew may be accommodated with a single person cabin or, if the COTR concludes that adequate privacy can be ensured by installing a curtain or other temporary divider, in a two-person shared cabin. If the vessel normally does not have separate cabins for crewmembers, the COTR must approve alternative accommodations. If a cabin assigned to a female Fisheries Observer does not have its own toilet and shower facilities that can be provided for the exclusive use of the Fisheries Observer, or if no separate cabin is available, then arrangements for sharing common facilities must be established. This must be approved in advance by the COTR and agreed to by the observer.

The Vessel Operator shall not forcibly assault, harass, or sexually harass, intimidate or attempt to influence the Fisheries Observer, interfere or impede with their data collection, tagging, or other duties, or allow crewmembers to do the same.

NMFS believes that the provisions of the "Termination for Convenience" clause of the SF-18 are an adequate approach to compensation for Broken Trips, i.e. situations arising as if an injury to the Fisheries Observer causes the vessel to suspend fishing and to return to port.

Should a set of fishing gear have commenced but could not be completed for reasons beyond the control of the Vessel Operator, the Contractor will receive compensation for that set. Vessels should plan to carry enough supplies, i.e. squid, mackerel, hooks of each type, etc. to complete a trip.

After the Fisheries Observer has been debriefed by NMFS, and the data have been quality controlled and assured (QA/QC), the Contractor will be given a copy of the

data collected with any changes resulting from QA/QC.

A. VESSEL REQUIREMENTS:

1. Demonstrated history (logbook data) of the vessel having conducted at least 3 fishing trips to the NED, for a total of at least 25 days at sea per trip.
2. Vessel must be able to set and haul the specified length of main line and specified number of branch lines in specified set and haul-back periods, as indicated in Section J.
3. Vessel shall provide enough fuel, ice, and water, and must be equipped with required turtle rescue equipment and an appropriate compliment of tools and spare parts necessary to maintain general vessel and fishing operations for at least 25 days at sea.
4. As a minimum, all vessels must be completely rigged for longline fishing, as per the requirements of Section J, including:
 - a. A specified number of properly configured gangions, floats, and float lines.
 - b. At least an additional 20% of the specified amount of gear carried as spares.
 - c. A specified length of main line with an extra 5 miles carried as spare.
 - d. Operational hydraulic longline spool, operational radio direction-finding buoys, flagpoles, weights, flags, and, lights for the setting and hauling of longline gear.
 - e. All the other associated gear and hooks, snaps, branch line bins, gaffs, etc., necessary to carry out longline fishing operations, including sufficient bait to make at least 20 sets per trip.
5. Vessel must have a shaded, protected, restrictive, and well-ventilated area where any turtle brought on board the vessel can be covered with a moist cloth. Turtle movements will be restricted by penning it up in a makeshift fashion using available resources or the animal will be turned on its back and supported with tires, towels, or carpeting to prevent rolling. Vessels may construct a square made of 2x4s or 4x4s to contain any captured turtles.
6. Vessel must have a minimum of 5 cu. ft. of cold storage space (ice hold space) for storage of scientific specimens.

7. A minimum of one head and one shower shall be available, with soap, toilet paper, and paper towels being provided by the vessel.

8. The vessel must comply with all guidelines for handling, resuscitation, and release of sea turtles required by fishery management regulations for Atlantic Ocean longline vessels. The vessel must carry all equipment (e.g. dip net, line cutter) required by those regulations. The Owner and Vessel Operator must also fully participate in the NMFS workshop to be held prior to initiation of experimental fishing operations.

B. ELECTRONIC EQUIPMENT REQUIREMENTS:

1. Radios:

- a. At least one functional single side band radio capable of contacting the SEFSC (Miami, Florida) from the area of operations.
- b. A system for switching to battery power for radio operation in the event of interruption of the normal power supply.
- c. Observer communications will be allowed via radio

2. e-mail capability:

- a. Vessel shall have e-mail capability while at sea.
- b. Communication with NMFS via e-mail will be arranged and tested prior to departure.
- c. Observer reporting will be allowed via e-mail.

3. A Global Positioning System (GPS).

4. Satellite phone:

- a. Vessel shall have satellite phone capability while at sea.
- b. Observer reporting will be allowed via SatPhone.

C. GENERAL CREW REQUIREMENTS:

The Vessel Operator shall have a minimum of two (2) years of fishing experience in the Atlantic longline fishery as the senior officer aboard a vessel, demonstrate (logbook data) having conducted at least 3 fishing trips of at least 25 days at sea per trip, and catching at least 100 swordfish per trip.

D. SPECIALIZED CREW EXPERIENCE REQUIREMENTS:

1. The Vessel Operator's Atlantic longline fishing trips must have been to the swordfish fishing grounds in the NED area.

2. The Vessel Operator shall be competent in the use of modern navigational and communications equipment.
3. The Vessel Operator shall be knowledgeable of U.S. and international fishery regulations and reporting requirements, and familiar with all aspects of the contract.

E. OPERATING PROCEDURES:

1. All contract work is subject to NMFS Southeast Fisheries Science Center obtaining an ESA Section 10(a)(1)(A) Permit for scientific research for this project.
2. NMFS intends to compensate vessels participating in the research program on a fee per set of fishing gear, as described in Section H.
3. The Fisheries Observer and Vessel Operator will meet a minimum of once a day to discuss fishing operations and resolve any problems which may occur. Fisheries Observers will report daily. The Fisheries Observer and Vessel Operator will work cooperatively to resolve all problems that may occur regarding fishing operations. In the event that the Fisheries Observer and Vessel Operator are unable to resolve any problem which has the potential for invalidating the experimental plan, or threatens the safety of the Fisheries Observer, the Fisheries Observer or Vessel Operator shall contact NMFS for instructions. If so directed by NMFS, the Vessel Operator shall return immediately to port where an acceptable solution will be arranged between the Government and the Vessel Operator, or the contract will be terminated.
4. All fish harvested may be retained by the vessel for sale, as authorized under 50 CFR Part 635 and other applicable regulations. All individually retained fish shall be marked (e.g. cleithrum tag) as to the unique set of fishing gear and as to gear modification (experimental treatment), or lack thereof (control), used to catch the fish. The Fisheries Observer shall be given access to the fish at the point of sale so that the Fisheries Observer may record sales data by category (treatment versus control) for use in economic analysis of the feasibility of the gear modifications.
5. Owner and Vessel Operator shall submit Logbooks, HMS Trip Summary Form, and Expense and Payment Summary Form for each trip. Contractor shall make three reports at the end of each trip; to the Principle Scientific Investigator or his representative, to the Economic Data Manager, and to the Contracting Officers Technical Representative (COTR). Therefore a minimum layover in port of up to six days may be required between trips to allow for reporting and re-supplying the vessel with experimental gear and supplies. The COTR will coordinate the layover.
6. All equipment and gear specified in the Government's statement of work, or which is not specified but is necessary to the safe and continued operation of the

vessel, shall be operational at the beginning of each fishing trip and maintained in working order throughout the duration of the contract. This shall include back up gear for those items likely to be lost overboard, such as line cutters, dehookers, and nets.

7. The Vessel Operator will be required to collect information in a prescribed manner and submit these data in a prescribed and appropriate format.

F. SAFETY:

1. The Vessel Operator is responsible for all matters relating to safety of personnel, the vessel, and equipment operation. The Vessel Operator will adhere at all times to Navigational Rules and to Rules of the Road, whether it be while setting, transiting, drifting, hauling, or at anchor. The Vessel Operator shall review safety procedures and equipment with the Fisheries Observer at the beginning of the cruise.

2. The Contractor shall provide U.S. Coast Guard (USCG) approved survival suits for all vessel personnel. The Fisheries Observer will provide his/her own USCG approved survival suit. Adequate, dry, top-side storage for all survival suits shall be provided.

3. The contractor shall provide USCG approved life jackets for all personnel aboard. Fisheries Observers will supply their own first-aid kit. The Contractor will provide a completely stocked first-aid kit as required by the USCG.

4. A Category One 406 MHZ Emergency Position Indicating Radio Beacon (EPIRB) must be affixed to the exterior of the vessel in a manner approved by the USCG.

5. The vessel must pass a USCG safety examination or inspection, or the equivalent from the country of registry which must meet the U.S. standards at a minimum. A vessel that has passed an USCG safety examination or inspection must display one of the following:

(i) A current Commercial Fishing Vessel Safety Examination decal, issued within the last 2 years, that certifies compliance with regulations found in 33 CFR, chapter 1 and 46 CFR, chapter 1;

(ii) A certificate of compliance issued pursuant to 46 CFR 28.710; or

(iii) A valid certificate of inspection pursuant to 46 U.S.C. 3311.

6. Upon request by a Fisheries Observer or NMFS employee, the contractor must provide correct information concerning any item relating to any safety requirements prescribed by law or regulation, and also allow a Fisheries Observer or NMFS personnel to visually examine any such item. Prior to each fishing trip, the

Fisheries Observer is required to briefly walk through the vessel's major spaces with the Contractor and or Vessel Operator to ensure that no obviously hazardous conditions exist. In addition, the observer is required to spot check the following major items for compliance with applicable USCG regulations:

- (i) Personal flotation devices/immersion suits;
- (ii) Ring buoys;
- (iii) Distress signals;
- (iv) Fire extinguishing equipment;
- (v) EPIRB; and
- (vi) Survival craft that compliments the number of persons aboard the vessel.

7. Fisheries Observers may refuse to board vessels that they deem to be unsafe. Such refusal does not constitute a delay for the purposes of the Government Delay of Work Clause. Should a dispute arise between the Fisheries Observer and the Vessel Operator on safety issues, the Fisheries Observer will contact NMFS for instructions.

G. GOVERNMENT-PROVIDED EQUIPMENT AND SUPPLIES:

1. All scientific sampling equipment and supplies.
2. Turtle rescue equipment (in addition the vessels legal requirements)
 - a. Line cutters
 - b. Dip nets
 - c. Dehookers
3. Treatment hooks (LP SS 18/0 circle hooks)

H. VESSEL COMPENSATION:

1. NMFS intends to compensate vessels participating in the research program by paying for each individual deployment of fishing gear, or set, as specified in the Section J. This award will be made to vessels making two trips to the NED area as specified in the solicitation. Vessels may retain and sell all fish harvested as authorized under 50 CFR Part 635 and other applicable regulations.
2. Vessels may continue to fish beyond the 33 sets as long as the all requirements of the Section 10 permit, in addition to those stated in Section J below, are followed. No vessel will receive compensation for additional sets of fishing gear beyond the specified 33 sets. Vessels fishing beyond the 33 sets may retain and sell all fish harvested as authorized under 50 CFR Part 635 and other applicable regulations, including availability of quota and compliance with all necessary permits.

3. The Government expects to make multiple awards in this program.
4. NMFS will not issue a “meal reimbursement” for fisheries observers under this contract.

I. POST-AWARD AND POST-TRIP MEETINGS:

1. Upon award of the contract and prior to the start of the contract, a post-award meeting will be held to discuss issues relating to the contract and fishing operations. The COTR will schedule the date and time of this meeting after award of the contract.
2. After completion of each fishing trip, a post-cruise debriefing will be held to provide the Vessel Operator an evaluation of the performance of the vessel and crew during the experiment. The COTR, upon completion of each trip, will schedule the date and time of the meeting.

J. SPECIAL REQUIREMENTS:

1. For all fishing sets vessels must set gear according to the experimental design configurations listed below.

All sets of fishing gear will start no earlier than one hour before sunset and vessel operators must complete hauling of all gear between the hours of 10AM and 1:00PM Eastern Daylight Time (EDT). Haul end times before 10AM and after 1:00PM EDT will be allowed if beyond the control of the vessel operator (i.e. break offs, other gear problems, extreme weather conditions, or mechanical breakdowns). Explanations for haul end times outside of the required time window must be documented by the observer.

Number of hooks deployed, spacing of hooks, and total length of mainline will be determined by the vessel operator in order to comply with haul end time requirement.

Branch lines must be at least 110% of the float line length.

Hook spacing must be consistent within a trip.

Hook fished immediately adjacent to each float.

Drop line and leader lengths and size must be consistent within a trip.

Green light sticks must be used on every leader and must be 1 ½ to 2 fathoms from the hook for all trips.

Leaded swivels must be used on every leader and must be 2 to 3 fathoms from the hook.

Mainline, drop line, and leader color and size must be consistent within a trip.

Hook designs must be consistent for all vessels (NMFS will purchase all treatment hooks for the experiments to ensure consistency).

Squid bait used should be illex squid between 150 and 300 grams in weight.

Mackerel bait should be Boston mackerel between 200 and 500 grams in weight.

Method of baiting must be consistent within a trip.

Control hooks will be supplied by each vessel and must be one of the following hook types:

Mustad 9/0 # 7698 RD
LP-SW 9/0
Eagle Claw 9/0 # 9016
Mustad 9/0 # 76801

Treatment hooks will be supplied by NMFS:

LP SS 0° offset 18/0 circle hook
LP SS 10° offset 18/0 circle hook

All leaders or snaps must be color coded in a manner that allows positive identification of hook type used.

* If for reasons beyond the control of the vessel operator, standardization of gear cannot be met i.e. supplies not available, the vessel operator or owner must notify NMFS and receive approval for waiver before departing on a trip.

2. Experimental Fishing Design Requirements.

SET A

Control (a) 25°-30° offset 9/0 J hook w/squid bait
Treatment (b) 0° offset 18/0 circle hook w/squid bait

SET B

Control (a) 25°-30° offset 9/0 J hook w/squid bait
Treatment (c) 10° offset 18/0 circle hook w/squid bait

SET C

Treatment (d) 25°-30° offset 9/0 J hook w/mackerel bait
Treatment (e) 10° offset 18/0 circle hook w/mackerel bait

SET A – Alternate control a and treatment b with 3 hooks between floats, first hook immediately adjacent to each float and equal distance between hooks two and three and next float.

SET B – Alternate control a and treatment c with 3 hooks between floats, first hook immediately adjacent to each float and equal distance between hooks two and three and next float.

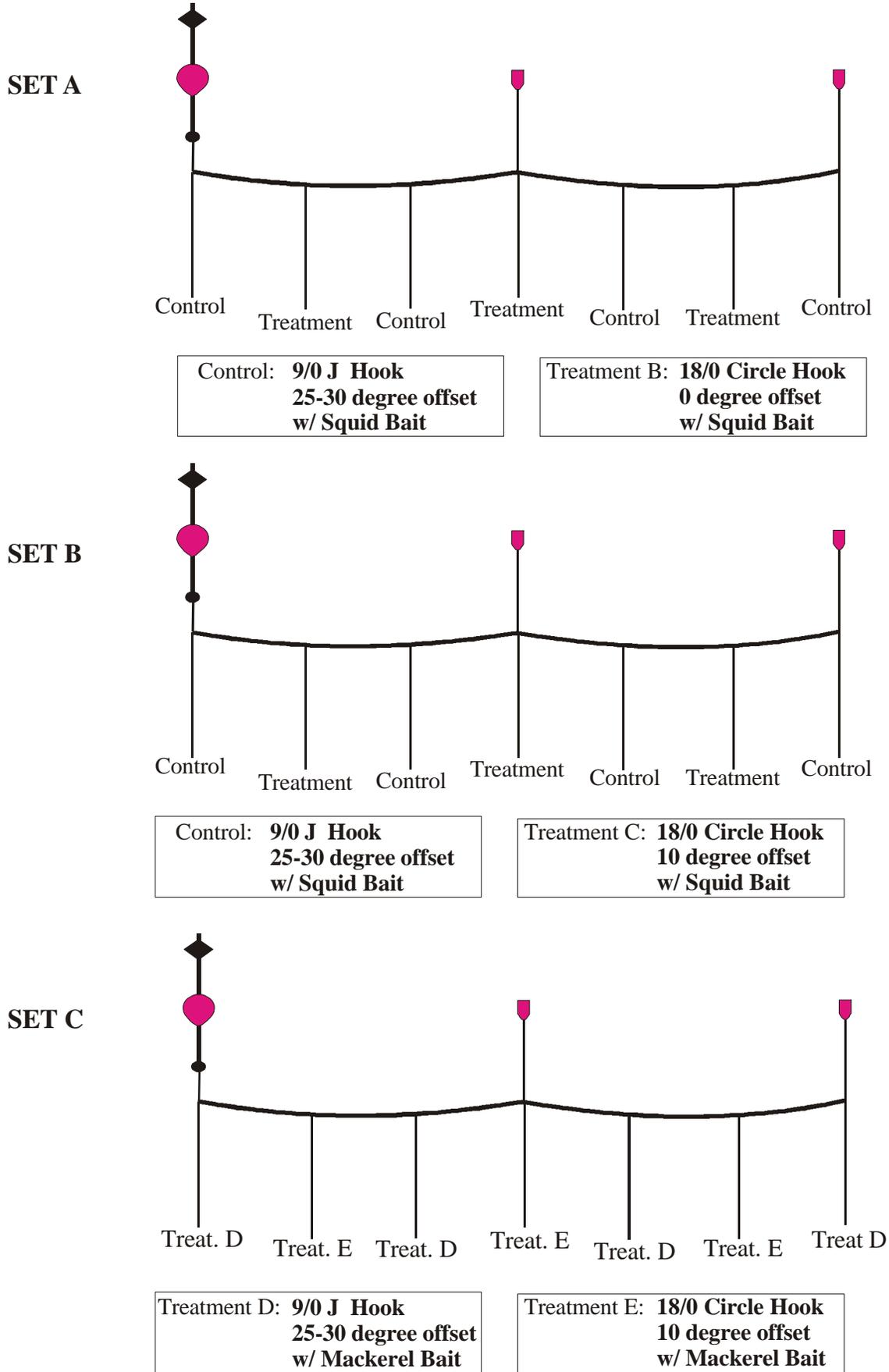
SET C - Alternate treatment d and treatment e with 3 hooks between floats, first hook immediately adjacent to each float and equal distance between hooks two and three and next float

Each vessel must alternate the set configurations listed above. For every set the vessel will deploy the gear with 3 hooks between each float, one placed directly adjacent to each float and the other two placed between the floats equal distance from each other. The first set in the series (A) will alternate control J hooks baited with squid and 0° offset 18/0 circle hooks baited with squid. The second set in the series (B) will alternate control J hooks baited with squid and 10° offset 18/0 circle hooks baited with squid. The third set in the series (C) will alternate control J hooks baited with mackerel and 10° offset circle hooks baited with mackerel.

2. See Figure 1 for the schematic representation of gear configurations for the proposed experiment.

3. The terms and conditions found in both the ESA Section 10 Permit (#1324) and the Memorandum to the Record with the Subject Endangered Species Act (ESA) Section 7 Consultation Regarding an Application for the Southeast Fisheries Science Center, NMFS (#1324) for a Scientific Research Permit Under the Provisions of Section 10(a) of the ESA [Consultation #F/PR/2001/00679] from Don Knowles, Director, Office of Protected Resources, both dated August 9, 2001, are made part of this Statement of Work by reference.

Figure 2: Set Configurations



TITLE 50--WILDLIFE AND FISHERIES

CHAPTER VI--FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 600--MAGNUSON-STEVENSON ACT PROVISIONS--Table of Contents

Subpart H--General Provisions for Domestic Fisheries

Sec. 600.746 Observers.

(a) Applicability. This section applies to any fishing vessel required to carry an observer as part of a mandatory observer program or carrying an observer as part of a voluntary observer program under the Magnuson-Stevens Act, MMPA (16 U.S.C. 1361 et seq.), the ATCA (16 U.S.C. 971 et seq.), the South Pacific Tuna Act of 1988 (16 U.S.C. 973 et seq.), or any other U.S. law.

(b) Observer requirement. An observer is not required to board, or stay aboard, a vessel that is unsafe or inadequate as described in paragraph (c) of this section.

(c) Inadequate or unsafe vessels. (1) A vessel is inadequate or unsafe for purposes of carrying an observer and allowing operation of normal observer functions if it does not comply with the applicable regulations regarding observer accommodations (see 50 CFR parts 229, 285, 300, 600, 622, 648, 660, 678, and 679) or if it has not passed a USCG safety examination or inspection. A vessel that has passed a USCG safety examination or inspection must display one of the following:

(i) A current Commercial Fishing Vessel Safety Examination decal, issued within the last 2 years, that certifies compliance with regulations found in 33 CFR, chapter I and 46 CFR, chapter I;

(ii) A certificate of compliance issued pursuant to 46 CFR 28.710; or

(iii) A valid certificate of inspection pursuant to 46 U.S.C. 3311.

(2) Upon request by an observer, a NMFS employee, or a designated observer provider, a vessel owner/operator must provide correct information concerning any item relating to any safety or accommodation requirement prescribed by law or regulation. A vessel owner or operator must also allow an observer, a NMFS employee, or a designated observer provider to visually examine any such item.

(3) Pre-trip safety check. Prior to each observed trip, the observer is encouraged to briefly walk through the vessel's major spaces to ensure that no obviously hazardous conditions exist. In addition, the observer is encouraged to spot check the following major items for compliance with applicable USCG regulations:

(i) Personal flotation devices/immersion suits;

(ii) Ring buoys;

(iii) Distress signals;

(iv) Fire extinguishing equipment;

(v) Emergency position indicating radio beacon (EPIRB), when required; and

(vi) Survival craft, when required.

(d) Corrective measures. If a vessel is inadequate or unsafe for purposes of carrying an observer and allowing operation of normal observer functions, NMFS may require the vessel owner or operator either to:

(1) Submit to and pass a USCG safety examination or inspection; or (2) Correct the deficiency that is rendering the vessel inadequate or unsafe (e.g., if the vessel is missing one personal flotation device, the owner or operator could be required to obtain an additional one), before the vessel is boarded by the observer.

(e) Timing. The requirements of this section apply both at the time of the observer's boarding, at all times the observer is aboard, and at the time the observer is disembarking from the vessel.

(f) Effect of inadequate or unsafe status. A vessel that would otherwise be required to carry an observer, but is inadequate or unsafe for purposes of carrying an observer and for allowing operation of normal observer functions, is prohibited from fishing without observer coverage.

TITLE 50--WILDLIFE AND FISHERIES

CHAPTER VI--FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 635--ATLANTIC HIGHLY MIGRATORY SPECIES--Table of Contents

Subpart A--General

Sec. 635.7 At-sea observer coverage.

(a) Applicability. NMFS may select for observer coverage any vessel that has an Atlantic HMS, tunas, shark or swordfish permit issued under Sec. 635.4. Vessels permitted in the HMS Charter/Headboat and Atlantic Tunas Angling and Charter/Headboat categories will be requested to take observers on a voluntary basis. When selected, vessels issued any other permit under Sec. 635.4 are required to take observers on a mandatory basis.

(b) Selection of vessels. NMFS will notify a vessel owner, in writing, when his or her vessel is selected for observer coverage. Vessels will be selected to provide information on catch, bycatch and other fishery data according to the need for representative samples.

(c) Notification of trips. The owner or operator of a vessel that is selected under paragraph (b) of this section must notify NMFS, at an address designated by NMFS, before commencing any fishing trip that may result in the incidental catch or harvest of Atlantic HMS. Notification procedures and information requirements such as expected gear deployment, trip duration and fishing area will be specified in a selection letter sent by NMFS.

(d) Assignment of observers. Once notified of a trip, NMFS will assign an observer for that trip based on current information needs relative to the expected catch and bycatch likely to be associated with the indicated gear deployment, trip duration and fishing area. If an observer is not assigned for a fishing trip, NMFS will issue a waiver for that trip to the owner or operator of the selected vessel. If an observer is assigned for a trip, the operator of the selected vessel must arrange to embark the observer and shall not fish for or retain any Atlantic HMS unless the NMFS-assigned observer is aboard. Notwithstanding the above procedures for assignment or waiver, at no time shall a person aboard a vessel issued a directed shark ILAP or LAP under Sec. 635.4 fish for Atlantic sharks with a gillnet or possess sharks on board a vessel issued a directed shark ILAP or LAP with a gillnet on board unless a NMFS-approved observer is aboard the vessel.

(e) Requirements. The owner or operator of a vessel on which a NMFS-approved observer is embarked, regardless of whether required to carry the observer, must comply with Secs. 600.725 and 600.746 of this chapter and--

(1) Provide accommodations and food that are equivalent to those provided to the crew.

(2) Allow the observer access to and use of the vessel's communications

equipment and personnel upon request for the transmission and receipt of messages related to the observer's duties.

(3) Allow the observer access to and use of the vessel's navigation equipment and personnel upon request to determine the vessel's position.

(4) Allow the observer free and unobstructed access to the vessel's bridge, working decks, holding bins, weight scales, holds, and any other space used to hold, process, weigh, or store fish.

(5) Allow the observer to inspect and copy the vessel's log, communications logs, and any records associated with the catch and distribution of fish for that trip.